

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

VITO A. PESCE, on behalf of *
himself and all other similarly *
situated, *
*
Plaintiff, *
*
Vs * 11-cv-1379
*
FIRST CREDIT SERVICES, INC., dba *
ACCOUNTS RECEIVABLE TECHNOLOGIES, *
*
Defendants. *
*

DEPOSITION OF FRANK RUSSO
THURSDAY, NOVEMBER 17, 2011
WOODBRIDGE, NEW JERSEY
10:00 A.M. - 3:00 P.M.

REPORTER:

Charles R. Senders,
License No. 596

1 F R A N K R U S S O, residing at 30 Sea Breeze
2 Lane, Staten Island, New York 10307,
3 being first duly sworn according to law by
4 the Notary, testifies under oath as
5 follows:

6 MR. KEOGH: Let the record reflect
7 that this is a Federal Rules of Civil Procedure
8 30(b)6 Deposition pursuant to notice to the
9 court reporter on today's date, for the
10 Northern District of Illinois.

11 DIRECT EXAMINATION BY MR. KEOGH:

12 Q. Mr. Russo, have you ever been
13 deposed before?

14 A. **Have I been deposed before-- can
15 you speak up?**

16 MR. VLAHAKIS: I'm sorry, Keith, but
17 can I ask you to repeat it, because I'm not
18 hearing you very well..

19 MR. KEOGH: Don't worry, I'll talk
20 slow.

21 (Whereupon, a short recess takes
22 place).

23 Q. Mr. Russo, the question was, have
24 you ever been deposed before?

25 A. **Yes, I have.**

1 Q. Mr. Russo, let's take a step
2 backwards, do you understand that in this
3 litigation FCS has produced a spreadsheet of
4 238 persons called. That is the skip trace
5 list; correct?

6 **A. Correct.**

7 Q. What I mean by skip trace list,
8 cell phone numbers that were obtained by skip
9 trace as opposed to being-- what I mean by skip
10 trace list, the cell phone is obtained via skip
11 tracing rather than being obtained through the
12 creditors, the 238 persons?

13 **A. Well, the creditors actually had
14 those phone numbers.**

15 Q. Well, all of them?

16 **A. From my initial investigation,
17 yeah, ninety-five percent of those phone
18 numbers were in the hands of our clients and
19 were given consent by that customer.**

20 Q. Let's take a step back, if we're
21 talking about the same thing. FCS produced the
22 spreadsheet of 238 names?

23 **A. Correct.**

24 Q. Out of those 238, are those subset
25 of 3,183 persons and those 238 are in those

1 those 3,183?

2 **A. Yes.**

3 Q. FCS provided a spreadsheet for the
4 238 persons?

5 **A. Yes.**

6 Q. It provided some contract
7 information for those 238 persons?

8 **A. Yes. We are in the process of**
9 **getting a lot more. This is very, very**
10 **timely. There is one client that as of**
11 **yesterday just asked us to subpoena the**
12 **records. So, you know, it is going to take a**
13 **lot of time to get this documentation. We are**
14 **on a daily basis doing our level best to get as**
15 **many as we possibly can, on a daily basis. It**
16 **is lengthy. We have clients we have to deal**
17 **with. You know, there is a lot of work behind**
18 **this. But, yes, we will.**

19 Q. I appreciate that. I'm trying to
20 figure out what you have in handwriting now and
21 then we can talk about what you expect to get
22 or are trying to get.

23 **A. Sure.**

24 Q. We're talking, as we sit here, of
25 what FCS has in hands right now?

1 **A. That's 3,183.**

2 Q. Out of those 3,000 something-- 183
3 persons, what does FCS have in hand to show
4 consent for those 3,000 some persons?

5 **A. So far 132.**

6 Q. So you have documentation and
7 consent for 132 persons out of the 3,183?

8 **A. We're knee deep in investigation.**

9 **We have-- this thing will continue to try to**
10 **get as many consents as we can possibly get.**
11 **But we're very confident that those consents do**
12 **exist.**

13 Q. That's neither here nor there.
14 Right now I'm trying to nail down the numbers.
15 So we have 3,183 persons and FCS believes it as
16 documents showing consent for 132 right now?

17 **A. We received back 132 documents.**

18 Q. Which FCS believes shows consent;
19 correct?

20 **A. Yes, a very high percentage, easily**
21 **at seventy-five percent and arriving by the**
22 **day.**

23 Q. But the documents I'm talking about
24 where only for those 132 that you have?

25 **A. Yes.**

1 Q. So you received 132 documents
2 back. Right now seventy-five percent of the
3 132 show consent. Is that fair?

4 **A. We're not done with our
5 investigation yet.**

6 Q. I'm not there. If you can just
7 answer the question, we can get through this.
8 You can tell me what else you are doing
9 expecting to get consent for the rest of that.
10 You hope a truckload of documents arrives
11 tomorrow showing consent for every one.

12 I want to talk about what you have
13 right now, then we can talk about what steps
14 you're taking to get the balance of the
15 information, okay?

16 **A. Okay.**

17 Q. So I'm just going to reiterate what
18 I think we have here. So we have 3,183
19 persons; correct?

20 **A. Persons, yes, correct.**

21 **Q.**

22 MR. VLAHAKIS: So Keith, can you
23 stop, 3,183?

24 THE WITNESS:

25 **A. I'm sorry, I got 3,113.**

4 A. Say the question again?

5 Q. Sure. Let me ask this a different
6 way. Mr. Russo, do you know which creditors
7 provided FCS with documents showing consent?

8 A. Yes.

9 Q. Which ones have provided documents
10 so far?

11 A. Which clients have presented consent
12 to us?

13 Q. Which clients have provided
14 contracts showing consent to call cell phones?

15 A. I can tell you, I'll tell you right
16 now. the Womans Workout World contract--

17 MR. VLAHAKIS: Keith, I can get it
18 to you tomorrow. I've got-- I know that the
19 woman that's been working on this just gave me
20 a spreadsheet before I walked out the door to
21 come to the deposition, that identifies it. If
22 you want we can have Frank read off of it right
23 now, too.

24 Q. Well, I had email saying that those
25 contract so far were Womans Workout World,

1 Gold's Gym, Any Time Fitness, Fitness Express,
2 GMAC. Are there an others?

3 MR. VLAHAKIS: Frank, tell him the
4 names?

5 A. Any Time fitness, Gold's Gym,
6 Womans Workout World, Fitness Express, GMAC,
7 Toyota, Honda.

8 Q. What are you reading off of?

9 A. What do you mean what am I reading
10 off of?

11 Q. It sounds like you are reading off
12 of something?

13 A. Information that provided you with
14 the skip numbers that was too late--

15 MR. VLAHAKIS: The sheet that the
16 girl gave me, Keith, which I can get to you.

17 It's got my handwritten comments on it now, but
18 I can get the sheet to you

19 Q. Am I correct, you are still waiting
20 for documents from, US Bank, Hyundai, World
21 Hyundai?

22 A. Yes.

23 Q. Anybody else you are waiting for
24 documents from?

25 A BMW